

CITY OF ST. AUGUSTINE

Planning and Zoning Board Special Meeting April 19, 2022

The Planning and Zoning Board met in formal session Tuesday, April 19, 2022, at 9:00 a.m. in the Alcazar Room at City Hall. The meeting was called to order by Grant Misterly, Chairperson and the following were present:

1. Roll Call:
Grant Misterly, Chairperson
Mike Davis, Vice- Chairperson
Jon DePreter
Sarah Ryan
Carl Blow
Charles Pappas
Christina Griggs

City Staff:
Amy Skinner, Director, Planning & Building Department
Tracy Mullins, Planning and Building
David Birchim, City Assistant Manager
Isabelle Lopez, City Attorney
Richard Thibault, Assistant City Attorney
Elyse Wiemann, Recording Secretary

2. General Public hearings for Items Not on the Agenda

(None)

3. Discussion and Recommendation Related to Mobile Food Dispensing Vehicles (Food Trucks)

Ms. Skinner reviewed the topic regarding Food Trucks and the proposed Ordinance and explained that this would be adopted into the City Land Development Code. She introduced Tracey Mullins to the Board and said she could answer any questions related to business tax receipts and review the process for Food Trucks. She said the materials were provided to the Food Co-Op Group and an ordinance draft was given to the Chamber of Commerce.

a. Discussion Related to the Draft Ordinance to establish regulations in the City's Land Development Code for Mobile Food Dispensing Vehicles (Food Trucks) for Recommendation to the City Commission

Mr. Misterly asked if the Food Truck Co-Op questions were answered since they had been engaged and involved with the process.

Mr. Thibault noted some of the comments were regarding how to regulate Food Trucks outside St. Augustine, and those were unable to be addressed. He said most had been answered, for example the removal of how far (in miles) a Food Truck could travel to a commissary.

Mr. Misterly asked what a commissary was.

Mr. Thibault replied it was a location to dispose of wastewater and other items.

Public comment was opened.

Dawn Watkins, from the Food Truck Co-Op, spoke regarding the Ordinance and said the changes were a vast improvement. She said they were aware that outside vendors entering St. Augustine could not be regulated through the City, but perhaps in the future it could be done by the State. She said her concern was that other vendors may not present themselves the way the Food Trucks in the Co-Op did by being properly licensed, certifications, and had insurance. She said a concern was limiting serving food past 10:00p.m. which could help alleviate incidents related to alcohol. She said there were a lot of special events as well, that went past 10:00 p.m. She thanked the Board for their time.

Mr. Pappas asked if Ms. Watkins could inform the Board of what items worked in the Ordinance.

Ms. Watkins said there were several items: changing of the zoning were huge as it provided more locations, if a food truck's license was suspended by the State it would not be allowed to operate, opening up more jobs in the City. She said they were advocating for the City to make these changes.

Mr. Davis said she had mentioned that 'food trucks in the Co-Op association presented themselves in a certain way' and asked what that meant.

Ms. Watkins said the Food Truck Co-Op had by-laws and standards that had to be maintained. She the Co-Op provided benefits to its members, but the requirements were to provide an up-to-date license, certificate of insurance, provide information regarding their health inspection from Department of Business and Professional Regulation (DBPR) and they have a three strikes rule and the third strike they were out. She said being a part of the Co-Op was very beneficial.

Mr. Davis asked how the public could know a Food Truck was part of the Co-Op.

Ms. Watkins said the Co-Op had a logo that could be added to menus and it was easily identified. She said most were proud to be a part of the Co-Op and were happy to share.

Jason Watkins, Food Truck Co-Op member, said other items they were in favor of was that Code Enforcement and the Fire Marshal would be involved to help with the statutory regulations. He said other items they were not in favor of was having to provide a site plan for each job, as they may not know until they arrive, and providing a list of all locations 30-days prior, as some places they were invited were last minute or cancellations. He said section nine asked for the name and contact information for the Food Truck, and almost everything after was a duplication of what the DBPR asked for a license. He said if the City asked for the Food Truck's contact information, DBPR licenses, and a certificate of insurance, that would stop most of the unregistered trucks from entering the City. He said license numbers were required to be displayed in two-inch letters. He pointed out a section that asked for an inspection to be done by an Automotive Service Excellence (ASE) certified mechanic, which was odd as this as not a requirement elsewhere.

Mr. Davis said he agreed when reviewing the application that pre-approved locations should be provided thirty days prior but was unsure how they would know where they would be so far in advance.

Mr. Watkins said it was difficult; however, there were some trucks that booked months in advance for larger events, but others booked within a day or two of being contacted. He said most trucks fell in the middle but almost all trucks did not know everywhere they would be within the thirty-day timeline.

Mr. Davis reference section four, number four as it stated *"color photograph of the mobile food dispensing vehicle and a scaled drawing of the mobile food dispensing vehicle or mobile food truck unit showing all kitchen equipment and plumbing fixtures for*

compliance with state and local requirements". He asked why the City asked for the same information required for a Food Truck to be approved by the Health Department.

Ms. Skinner said Public Works Department had an extensive review process and the main concerns were fats, oils and grease and the commissary issues regarding the water and removal of the waste and trash.

Mr. Davis said there was another section regarding that, and if another agency was responsible for approving that, there was no need to do it a second time. He said he thought this was a lot of extra work that had already been approved by other agencies.

Ms. Skinner said most of this was being done already and it was a matter of codifying it but she understood that was the reason she included the regulatory statutes for Food Trucks and the Florida Administrative Code in order know what was required by the Health Department and DBPR.

Mr. Watkins said that all the information had to be sent to the Health Department for inspection before being allowed to serve and was a complete duplication. He said the mobile license number was searchable on the Health Departments website where all their information was available.

Cesar Diaz, Owner of Odd Bird Kitchen and Lounge and food truck owner, was in favor of the ordinance. He said food trucks brought diversity to the town. He said every Tuesday there was a food truck to help serve the brewery not even two blocks from his restaurant and it did not affect his business. He said it brought smaller attractions to the Boulevard. He said before, food trucks were simple types of food but now, they had well executed foods and presentations. He said one concern the City hired a consultant for was the night life and said after 10:00p.m. it was difficult to find food downtown and that increased the drinking. He said there was a lack of hotel rooms and food, especially on

holidays. He said food trucks provided the gap to the people who visited St. Augustine.

Melinda Rakoncay complemented the Board on how they were handling this and was happy to hear there was a coalition for Food Trucks. She said her concern was related to parking. She said Food Trucks would be allowed in Residential General Office (RGO) areas and there needed to be parking. She said parking was a requirement for the restaurants and as Food Trucks became more and more popular, they would need parking. She said parking within the City was a critical issue.

Board discussion:

- No need to duplicate items that were approved by other agencies
- 30-day registration removed the 'mobile' part out of mobile food trucks
- Regulations seemed to refer more to catering or mobile food parks and not an event
- 10:00 p.m. time could be lengthened to certain parts of the City, or different zoning districts
- Definition for commissary stated it could not be at a private residence but unsure if that followed the new Florida Home Business Law

Mr. Thibault stated he would double check, but he did not recall a commissary being allowed for a private resident within the City limits at any point. He said if it were possible, that could be changed.

Ms. Skinner said she thought that in the State Administrative Code, a single-family residence could not be used as a commissary.

Discussion continued:

- Odd to require an inspection from an ASE certified mechanic for the industry

- Main reason to include was to ensure Food Trucks were safe, but could be overreaching
- Questioned if other mobile businesses were required to have an ASE inspection
- Related to mobile Food Trucks that used the public right-of-way and was a safety concern
- City does not allow Food Trucks in the public right-of-way
- Business for Food Trucks was conducted on the street whereas lawn business took place on private property and ASE inspections were not required
- If not consistent, ASE inspections should be eliminated as other business who use the right-of-way were not required

Mr. Pappas asked if the Police Department was able to enforce City Code when there were safety issues or not enough parking if Code Enforcement officers were unavailable.

Ms. Lopez said the Police Department could, as they have the authority anytime there was a safety issue. She said the answer she expected from Chief Michaux would be there was finite amount of Police Officers and their main priority was not crowd control for a Food Truck and would need to prioritize their calls.

Ms. Skinner said the reason for the site plan was to know where it would be, how close to it was to a building, to make sure it was not in a required parking space for the existing business, and the Fire Marshal and Building Official would inspect the food trucks for hazards or accessibility hazards before issuing a business tax receipt.

Mr. Pappas said his issue was site plans removed the 'mobile' part of the food truck. He thought it could be separated out that if attending an event on an existing establishment a site plan could help.

Ms. Ryan said she understood that a business like Marina Munch, a food truck

court could provide a site plan, but one off's would be more difficult.

Discussion Continued:

- Suggested using the area at Municipal Parking Garage for Food Trucks in the downtown area
- Unable to use that area due to the historic requirements such as zoning, signage, color schemes
- Would be difficult for a Food Truck to meet the regulations
- No reason a Food Truck should not be able to park in the historic district for temporary business
- Thought the 'no parking on unimproved lots' needed to be addressed
- Main concern was public safety
- Could have preapproved location inspected by Building official to ensure safety and a site plan for those locations would be beneficial
- Unimproved parking areas should require a site plan
- Limit alcohol sales to a food truck court setting instead of eliminating it altogether

Ms. Lopez said the challenge with alcohol in Food Truck areas was when they pull into a parking lot of an existing business since drinking in a parking lot was a crime and the City did not want to eliminate or lose the ability the regulate or prohibit drinking on sidewalks and parking lots. She said it could be a possibly in a fenced off area for a permanent Food Truck court, she said that would be separate and distinct from the parking lot.

Ms. Mullins said they were viewed as an accessory use to a primary use. She said there were possible changes if this was updated: parking, different zoning categories, and being at a fixed location on commercial property. She said the restaurant owners during COVID were thankful to have Food Trucks as an option, and said the process was similar to restaurants for a business tax receipt to be issued, the

Building Official, Fire Marshal, and Public Works Department had to sign off.

Discussion continued:

- Unsure how everything would apply to a food truck in the same location versus one that moved and was 'Mobile'
- Instead of extending the 10:00p.m time limit, could create a special permit for after 10:00p.m. to be in certain locations
- Concerned with the conflict between requiring a site plan for food trucks that were permanent or semi-permanent versus mobile events
- DBPR license would provide most information but could be cumbersome to staff
- Mechanical inspection seemed burdensome and was unfair if it did not apply to everyone
- Concerned with parking but unsure if people would come from all over if a food truck were in a neighborhood
- Hesitant to allow alcohol sales; if allowed, the City should have specific locations as to where it could be sold
- Process would be complaint driven

Mr. Misterly asked for the parking requirements to be explained.

Ms. Mullins stated it was the same as restaurants, one parking space per four seats. She said there was a food truck with seating the fees and forms would be the same as a restaurant. She said currently, Food Trucks have partnered with existing locations that had enough parking for their business and the Food Truck. She said with adding the other zoning categories this could be reviewed as it would no longer be an accessory use but a primary use.

Mr. Misterly said his concern was restaurants paid many sub-cost and Food Trucks did not. He said Food Trucks should not have an advantage over restaurants. He said restaurants had a lot of associated cost with parking; however, it made sense to partner

with an existing business, but if expanded into residential areas, the playing field should be even. He asked what fees were assessed for a Food Truck.

Ms. Mullins replied the fee was \$50.00. She said restaurants with less than two employees were charged \$50.00 and those with three or more employees were charged \$100.00.

Discussion continued:

- Fire assessment fee was included in the Business tax receipt
- Everyone paid taxes except for exempt properties and those were the ones that paid the fire assessment fees
- Restaurants paid a fee per seat and was the same for food trucks if seats and tables were provided
- Different levels of fees based on serving products
- Other fees associated with restaurants in the City were storm water, water, sewer but did not apply to Food Trucks
- Food trucks paid for water, sewer, trash at commissary locations
- Food Trucks were not required to provide a bathroom if it was one truck; however, required at Food Truck courts or gatherings
- If seats were provided a fee was attached
- Fee would not apply to establishment with seating provided by them
- Supportive of keeping Food Trucks out of the HP Districts
- Government sites had lease agreements and would be addressed through property owner, agreements or lease agreements
- Lighthouse property would require a Land Use Plan amendment and was currently limited to museum uses

Ms. Lopez advised most City properties were zoned Government Use District (GU). She said it was not that government did not have to comply with zoning; however, GU encompassed almost everything.

Discussion continued:

- Would need a licenses agreement for any revenue generating event or activity on GU property, be approved by the City, and would limit duplicated or incompatible uses
- Food trucks were flexible businesses and thought there should be two sets of regulations
- Food truck courts should have one set of rules and regulations; whereas, it should be different for trucks that were mobile
- Suggested food trucks could be in the HP District several times a year at the special events field or on certain days
- Should be required to provide proof of insurance as it made a company legitimate
- Should rethink the thirty-day registration
- Questioned if staff reviewed information from the Health Department

Ms. Mullins replied the information from the Health Department was separate; however, DBPR wanted the City business tax receipt before finalizing their requirements.

Mr. Davis asked if the City required the layout and it was approved before being approved by DPBR was the City assuming the liability since the City had approved them or was the DPBR needed before the licenses could be issued.

Ms. Mullins stated said in her experience, a City business license was needed before the State would issue their approval.

Mr. Davis said he wanted to refrain from duplication; however, he did not want anything to slip through the cracks.

Discussion continued:

- Understood flow-based fees if at a food truck court but not if it was an one time event or trucks would be moving in and out

- If fees were applied to food trucks would want to have an average fee from the utility department
- Businesses that used paper products and no washing would cost around \$350.00 per seat, but would confirm
- Wanted the fees to be reasonable for the services provided
- Unsure how fees were collected when it was a mobile business
- Disagreed with vehicle inspection as Food Trucks were less mobile than delivery
- Food Trucks were not allowed in Residential area but were allowed in RG1 and RG2
- Conflict with the definitions but questioned if catering was able to be done with a Food Truck
- Needed to provide a distinction on how catering and Food Trucks were defined
- Questioned if gravel parking lots would need to be paved

Mr. Thibault said the intent was for abandoned buildings with lots, but the Building Official would have to verify the safety of the location for people to be there.

Ms. Lopez said gravel was an acceptable stabilized structure.

Discussion continued:

- Questioned if a food truck were on private property and an injury occurred the City would not be held responsible
- To be on private property would need permission from the owner with a notarized letter to ensure liability to the property owner
- City wanted to ensure locations were suitable because the City permitted a particular use
- Suggested having two different sections to define food court versus single one time use and should list the qualifications
- Specific language should be included regarding seat fees

- Food Truck owners flow-based fees would be negotiated with the property owner and not individual food truck owners
- Flow-based fees would be credited to the property and the property would have a value for reserved space for water and sewer
- There were two charges for utilities: base charges and monthly charges based on usage
- Property owner would pay based on the number of seats and the usage on a monthly basis
- Fees paid to be on site were between property owner and the food truck
- Food Trucks were only allowed in the Zoning Districts proposed in the ordinance
- If not allowed in the HP Districts not sure if Food Trucks should be open later than 10:00p.m. as downtown was the entertainment area
- Proposed ordinance included a provision to allow being open after 10:00p.m. if business they were at was open as late as the existing use on the property
- There were specific guidelines for each historical area and would have to follow HARB guidelines
- Questioned the fees for the Fire Marshal as some cities based the fee on square footage

Ms. Skinner said she would have to double check about the cost of the inspections; however, the inspections took place annually.

Discussion continued:

- Most people did not stay at the location unless it was a food truck court area
- If there were two or more food trucks on the same property, would be required to provide bathrooms within 150 feet
- Food Trucks were required to provide sanitation
- Ordinance was a vast improvement to for food trucks

- Food Trucks were regulated by the State and the DPBR license should displayed on the truck
- Should be careful with comparing food trucks to restaurants
- Not many food options in the City after 10:00p.m.
- If open past 10:00p.m. should be in a commercial location and not residential
- Could reduce the thirty-day site plan requirement, but understood reasoning
- Public Works Department should review paperwork before approval
- If fees were changed because of food trucks should re-evaluate fees for catering

Mr. Thibault said the signage for Food Trucks was an issue but stated, 'Food Trucks would be allowed to use an 'A frame' sign however, Code did not allow 'A framed' signs to be used for businesses. He said this was added as most food trucks used this type of sign for advertisement. He asked the Board if they would want to change the Sign Code to include 'A Frame' or keep the Sign Code the same.

Mr. DePreter felt it should be kept all consistent as advertisement could be displayed on the Food Truck. He said he had seen many successful Food Trucks without having those types of signs for advertisement.

Mr. Pappas disagreed and said many times he would not stop because he was unable to see what was being sold.

There was Board consensus to have another draft ordinance produced before moving forward.

Mr. Misterly provided a list of items that the Board wanted revised:

- Did not want duplication of agencies
- Thirty-day registration seemed longer than necessary

- Could have a blanket approval for mobile trucks and a site plan for Food Courts
- Time issue and perhaps having a special permit for certain locations or events application
- Find out if a commissary could be at a restaurant or if allowed at a home business
- Not in favor of the ASE Certification requirement for maintenance
- Clarify the meaning of unimproved lot
- Not a lot of support for alcohol, or could be a Use by Exception at a Food Court and should be in specific locations
- Should provide proof of insurance
- Separate the Food Truck Courts and One Stop Mobile location
- Parking should be clarified by either a Food Court or Mobile location

Ms. Ryan said she was in support of keeping the 'A frame' signage in the ordinance.

Mr. Misterly asked if keeping the 'A frame' would require a change in sign ordinance or could it be an exception within this ordinance.

Mr. Thibault said the sign ordinance would have to be changed.

There was Board consensus to leave the sign ordinance as it was.

Ms. Skinner said this would be brought back to the Board with the changes on a future agenda.¹

b. Planning and Zoning Board discussion and recommendation

(None)

4. Discussion Related to Potential Initiatives Regarding the Provision of Affordable/Workforce Housing

Mr. Birchim reviewed the topic and said the City had identified an affordable housing program. He said the first was the 80 acres property off Holmes Boulevard owned by the City, and the City Commission had approved this location for an affordable housing development. He said the housing market was becoming out of reach for those in the affordable housing or workforce housing market and this was not only occurring in St. Johns County, but all over the country.

Mr. Birchim said there were two options: Codifying what was allowed by the State, which was a land donation program that allowed the local governments could provide a bonus for the residential density. He said for this to happen, the affordable housing density bonus would have to be defined in the Comprehensive Plan and Zoning Code. He clarified that density referred to the number of houses per acre of land. He said the City would create a higher density specifically for Affordable Housing. He said when a piece of property was to be donated, there would be a staff review to determine if the property was suitable for affordable housing, deed restrictions would be drafted by the City Attorney's office and forwarded to the Planning and Zoning Board (PZB); PZB would make a formal recommendation to the City Commission. He said it could be done in perpetuity or in duration. He said the ones the City was reviewing for Holmes Boulevard would be perpetuity, but there was a possibility to have a system for density bonuses in the private sector with an expiration date so affordable housing could eventually turn into market housing. He said at this time the City would not manage the properties; it would receive title to the property as a land donation and transfer to a not-for-profit housing corporation to develop and manage.

Board Discussion:

- Eight units were allowed in Residential Single Family One and Two and sixteen

¹ Break from 10:49a.m.- 11:00a.m.

units were allowed in Residential General Office

- Would other zones be allowed to have more than sixteen units
- Would be rental units and not owned property

Mr. Birchim said if units were sold, there would be a separate process. He said the County had a cap on the sale price for Affordable Housing units; however, it was controversial. He said the County had a covenant which said "when a developer sells an affordable housing unit that unit was tied to that specific areas median income and the buyer had to be within that range and could only spend 30% of their income on housing". He noted that it only applied to the first buyer. He continued the first buyer could sell it at the market rate and gain equity allowing them to move up within the housing market. He said these would be rental properties and not for sale.

Mr. DePreter said it might not work out as planned because a company was able buy property and sell it at market value, which, would prevent the area from having affordable housing.

Mr. Birchim said if a developer wanted a development of mixed uses the density bonus would only apply to the affordable housing area.

Mr. Birchim continued the next option was the transfer of development rights. He said the theory was when a developer designed a new community with the maximum amount of density that could be achieved, the infrastructure would be designed for the same density. He said developers would not leave that community until all lots were sold; however, St. Augustine was not developed this way because there were less houses on the properties than the density allowed, and people had extra land that could be apportioned for affordable housing. He said he did not want to over tax the infrastructure by adding density that was beyond what the community was designed for. He stated St.

Augustine was developed before there was zoning, and zoning had been placed on top of existing neighborhoods. He said perhaps an affordable housing density could be created and assigned to the Comprehensive Plan and Zoning Code and have qualifiers for developers to meet for affordable housing.

Board Discussed:

- Recession in 2009 lead to a housing shortage
- Inflation was high and the younger generations were being priced out
- Would have to pay fees associated with the City and the County which were expensive making it almost impossible for affordable housing
- Felt cost would not stay where they were now but thought the City needed to be prepared for when the cost decreased
- Holmes Boulevard property was in the City's service area
- City should try to help mitigate the cost of the infrastructure
- Requirements for affordable housing would deter developers
- All rental properties could have a fifteen-year time limit before being sold
- If allowed, developers would sell at market value and affordable housing would be lost
- Unsure on how to stop corporations from making a large profit in fifteen years for a short-term solution
- Not many developable lots within the City to help solve the issue
- Should review other cities in Florida to see what was successful and what was not
- Should try to reduce or eliminate the connection and impact fees
- Review a density bonus for the entire project but have the affordable housing part be in perpetuity and not allowed to be sold in fifteen years
- Understood flipping a home for profit but a time restriction could be applied to stipulate how long the buyer had to stay in the home

- Affordable housing would be lost if they were turned over every ten to fifteen years
- Housing should be in the downtown area and walkable to service instead of just on the outskirts
- Was a National problem and thought the Federal Government could assist to help make materials more affordable
- Concerned with changing the Land Use Code
- Would not want to negatively impact the people who lived in the community
- If the density increased, the quality of life would be reduced
- Low income household spent on average 30% on transportation
- Questioned where the right place was for housing
- Solution to the problem was not changing the density
- Unsure of what the City's goal was for affordable housing
- Obtainable housing was different and could be done within the City but was not the same as affordable housing
- Higher density and lower income did not always turn out the way it was expected and could be stagnant
- Density should be close to major roads for more access to mobility
- Extra density could provide benefits for living in a City like transit, which was not available now
- Any density increases would want to have in targeted areas instead of scattered locations
- Not an easy solution for the problem
- City would have to create the environment, but the initiative would be left to someone else
- Both options meant increasing the density; however, wanted more options to choose from
- Board tried to limit the impacts of density and this would add to the density to create affordable housing

- Most of the traffic in the City was not from residents but from the County and visitors
- Elderly housing was in short supply
- Should find out which demographic needed housing the most

Public Comment was Opened:

Melinda Rakoncy said this was a serious problem, but density attracted automobiles; however, there were no schools, grocery stores, doctors' offices in the downtown area and people would have to have a vehicle. She said density in single family neighborhoods was a concern as that normally meant apartments or condos which was not allowed. She said we must keep in mind the people who already live in the area. She said she did not believe this was the solution.

Public Comment was Closed.

Mr. Birchim said he had completed some research on how other communities approached affordable housing, but there was not a Housing Authority in the area, and without a program in place, options were limited. He said he thought there was a consensus about not increasing density and thought there may be other ways to provide incentives. He said there was no intent on changing the Land Development Code without approval from the community. He said he would proceed with Holmes Boulevard and report back to the Board.

5. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 12:07 P.M.²



for Grant Misterly, Chairperson

² Transcribed by Elyse Wiemann